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James S. Bowman Inn of Court

“GUN CONTROL: Can’t We All Just Get Along?”

April 10, 2013

Current Federal Gun Laws

Gun Control Timeline

1791 The Second Amendment is ratified. It states, “A well regulated Militia, being necessary to the security of a free State, the right of people to keep and bear Arms, shall not be infringed.”

1871 Union Army veterans Col. William C. Church and Gen. George form the National Rifle Association to promote and encourage rifle shooting on a scientific basis.

1934 A year after former-President-elect Franklin D. Roosevelt escapes an assassination attempt with a handgun. Congress passes the National Firearms Act, which targets automatic-fire weapons, including machine guns, short-barreled shotguns and rifles, and parts of guns like silencers. It also imposes a \$200 tax on the making and selling of firearms and requires registration of certain types of firearms subject to Treasury Department approval.

1938 Congress passes the Federal Firearms Act, requiring sellers to obtain a Federal Firearm License from the Secretary of Commerce and record the names and addresses of gun buyers. It also prohibited sellers from selling to those people who were convicted of certain crimes or lacked a permit.

1968 The Supreme Court decision in *Haynes v. United States* makes the 1934 Act virtually unenforceable. John F. Kennedy, Martin Luther King and Robert Kennedy are assassinated. Congress passes the Gun Control Act, which requires individuals engaged in the business of dealing in firearms to obtain a federal license, prohibits transfers of firearms to certain persons, restricts the interstate transportation of firearms, and regulates the importation of certain firearms not suitable for sporting purposes.

1972 The Department of Treasury’s Alcohol and Tobacco Tax Division of the Internal Revenue Service becomes the Bureau of Alcohol, Tobacco and Firearms. It is created to enforce the Gun Control Act. The organization nearly doubled in size.

1981 President Ronald Reagan is shot in the lung and White House Press Secretary Jim Brady is paralyzed after an assassination attempt against President Ronald Reagan.

1984 Congress enacts the Comprehensive Crime Control Act and the Armed Career Criminal Act, which enhances the sentences of those convicted of using firearms in crimes of violence.

1986 Congress eases some controls with the Firearms Owners Protection Act, which allows “hobbyists” and “collectors” to sell arms without a license. It also bans the manufacture of machine guns for civilian use and makes it unlawful for anyone, not just licensees, to sell firearms to prohibited persons. It imposes additional penalties for persons using a firearm during certain crimes and persons with robbery or burglary convictions who are illegally shipping guns. Congress passes the Law Enforcement Officers Protection Act, which makes it illegal for anyone to manufacture or import armor piercing ammunition that is capable of penetrating bulletproof clothing.

1990 Congress passes the Crime Control Act, which directs the attorney general to develop a strategy for establishing “drug-free school zones,” including criminal penalties for possessing or discharging a firearm in a school zone. It outlaws the assembly of illegal semiautomatic rifles or shotguns from legally imported parts.

1993 Congress passes the Brady Handgun Violence Prevention Act, which imposes a five day waiting period and background check to sell a handgun to an unlicensed individual and demands a National Instant Criminal Background Check System (NICS) to be ready by November 30, 1998. The new background check system will apply to all firearms and will allow checks to be done over the phone or electronically with results returned immediately in most cases.

1994 Licensees are required to submit photographs and fingerprints as part of their application under the Violent Crime Control and Law Enforcement Act. It also bans possession of magazines holding more than 10 rounds of ammunition and the manufacture, possession and importation of new semiautomatic assault weapons. Criteria for semiautomatic assault weapons that fall under the ban are provided as well as a list of 19 specific firearms. It prohibits juveniles from possessing or selling handguns and directs the attorney general to evaluate proposed and existing state juvenile gun laws.

1998 The waiting period of the Brady law ceases to apply and the permanent provisions of the law go into effect, requiring gun dealers to run a criminal background check of all buyers through the newly created NICS computer system.

1999 Students Eric Harris and Dylan Klebold attack Columbine High School near Denver, killing 12 fellow students and a teacher. Another 24 people are wounded. The attackers then kill themselves.

2004 Congress allows a 1994 ban on possession of magazines holding more than 10 rounds of ammunition to expire.

2005 President George W. Bush signed the Protection of Lawful Commerce in Arms Act, which limits the ability of gun crime victims to sue firearms manufacturers and dealers for damages.

2007 After passing a background check even though a Virginia court had deemed him mentally defective, Seung Hui Cho opens fire on the Virginia Tech campus with two handguns he purchased, killing 32 and wounding 24 other.

2008 In *District of Columbia v. Heller*, the Supreme Court dismisses a handgun ban in place in Washington D.C. The Court rules that the Second Amendment protects an individual's right to possess a firearm for private use within the home in the District of Columbia. President George W. Bush signs a piece of gun control legislation aimed at keeping people who are severely mentally ill from purchasing guns.

2010 In *McDonald v. City of Chicago*, the Supreme Court holds that the right of an individual to keep and bear arms protected by the Second Amendment is incorporated by the Due Process Clause of the Fourteenth Amendment and applies to states.

2013 The Aurora, Colorado theater shooting occurs. James Holmes is charged with killing 12 people and injuring 58 others with gunfire during the attacks at the Century Aurora 16 movie theater. A gunman opened fire at Sandy Hook elementary school in Newtown, Connecticut where 18 children and 6 adults died at the scene. The gunman died at the scene. President Barack Obama introduces his gun control proposals, which include universal background checks for gun sales, the reinstatement and strengthening of assault weapons ban, and limiting ammunition magazines to a 10-round capacity.

Laws of Other Nations

SUMMARY OF GUN CONTROL IN BRITAIN:

- The right to keep and bear arms in England originated during the reign of Henry II with the 1181 Assize of Arms, affirmed in the Parliament's Declaration of Rights in 1689 and recognized as part of the English common law by Blackstone.
- Various limitations on these rights were introduced in the Pistol Act of 1903, the 1920 Firearms Act and the 1937 Firearms Act.
- Subsequent Firearms Legislation:

The Firearms Act of 1968 consolidated existing legislation in a single statute requiring an individual to obtain a "Firearms Certificate" issued by the area's Chief Constable demonstrating a "good reason" for possession of firearms or ammunition. The Act also prohibited the possession of firearms or ammunition by criminals who had been sentenced to imprisonment for a period of up to five years or for life depending on the nature of the offense.

➤ Current Legislation:

The 1988 Firearms (Amendment) Act was a direct result of the “Hungerford Massacre” in 1987 and resulted in the banning of semi-automatic and pump action center fire rifles, military weapons and additional restrictions on shotguns.

This was followed by the 1997 Firearms (Amendment) (2) Act, which was a response to the “Dunblane Massacre” in 1997 and which completely banned the possession of private handguns (exempting muzzle loaders and pistols of historical interest).

- Current Statistics Compiled in the “Small Arms Survey (an independent research project located at the Graduate Institute of International and Development of Studies In Geneva, Switzerland) 2007 indicate that the percentage of homicides by firearm in England is 6.6; the homicide by firearm rate per 100,000 people is .07; the average number of firearms per 100 people is 6.2 and the average total of all civilian firearms is 3,400,000.

SUMMARY OF GUN CONTROL IN THE UNITED MEXICAN STATES:

- The Constitution of 1857 under Article 10, recognized for the first time the *right for people to keep and bear arms* as a constitutional guarantee. Also in 1857, another mandate was issued requiring a firearms license in order to carry lawfully.
- In 1893, new regulation on the bearing of arms was issued, recognizing the right to keep and the right to carry while regulating the issuance of licenses to carry, which conditioned that weapons only be carried in a manner that they are visible.
- At the height of the Mexican Revolution, the Constitution of 1917 was enacted and Article 10, carried over from the previous constitution, was modified to define three separate things: one) it recognized the right of the people to keep and bear arms, two) it excepted from civilian possession weapons prohibited by law or reserved for the military, and three) it required that weapons carried in public be done in accordance to the law.
- The 1960s were marked by a series of anti-government movements that escalated to the [Tlatelolco massacre](#), prompting then-[President Echeverría](#) and [Mexican Congress](#) to modify Article 10 of the Constitution to its present form today, which permits private ownership of firearms within the home only. In January 1972, with the enactment of the Federal Law of Firearms and Explosives, the legal proliferation of firearms among the population was heavily limited and restricted.
- Current Legislation:

Article 9 of the Federal Law of Firearms and Explosives states:

(translated) *It may be kept or carried, under the terms and limitations established by this law, weapons of the following characteristics:*^[26]

1. Semi-automatic handguns of caliber no greater than [.380](#) (*9mm Browning, 9mm Corto, 9mm Kurz, 9mm Short, and 9×17mm*). Left excepted are calibers [.38 Super](#) and [.38 commander](#), and also calibers [9mm](#). [Such as] Mausser, Luger, Parabellum and Commander, as well as similar models of the same caliber of the excepted, from other brands.
2. Revolvers of calibers no greater than [.38 Special](#), left excepted is caliber [.357 magnum](#). [Land tenure](#) owners, [common land](#) owners and [farmworkers](#) outside urban zones, may keep and carry, upon registration, one weapon of those already mentioned, or a [.22 caliber rifle](#), or a [shotgun](#) of any caliber, except those of a barrel length shorter than 25 inches (635mm) and of caliber greater than [12-gauge](#) (.729" or 18.5 MM).

Additionally, Article 10 of the Federal Law of Firearms and Explosives states: (translated) *The firearms that can be authorized to participants of shooting or hunting, to keep in their home or to carry with a license, are the following:*

1. Semi-automatic handguns, revolvers and rifles of caliber [.22](#), [rimfire ammo](#)
2. Handguns of [.38](#) caliber for [Olympic shooting](#) or other competition
3. Shotguns in all their calibers and models, except those with a barrel length shorter than 25 inches, and calibers greater than [12-gauge](#).
4. [Triple-barrel](#) shotguns in the calibers authorized in the preceding section, with a barrel for [metallic cartridges](#) of different caliber.
5. High-powered rifles, of [repeating](#) or semi-automatic function, non-convertible to [full-auto](#), with the exception of [.30 caliber](#) carbines, rifles, muskets and carbines caliber [.223](#), [7](#) and [7.62mm](#), and [Garand rifles](#) caliber [.30](#).
6. High-powered rifles of greater caliber than those mentioned in the previous section, with special permission for their use abroad, for hunting of [game](#) bigger than those present in national wildlife.

Summary: Under these two articles, private citizens are generally restricted to semi-automatic handguns or revolvers of a caliber no greater than [.380](#) (for home defense), rifles no greater than [.22](#), and shotguns no greater than a [12-gauge](#) (hunting and shooting when a member of a club). Anything bigger than those calibers is considered *for exclusive use of the military* and strictly forbidden for civilian possession, as defined by Article 11 of the Federal Law of Firearms and Explosives. Only citizens with collector permits may be authorized to possess firearms outside those permitted for civilian ownership.

- Homicides by firearm in Mexico per 100,000 people was 10 in 2010 with 11,309 deaths. The average number of firearms per 100 people is 15 and the average total of all civilian firearms is 15,500,000 ‘Homicide in 207 Countries - Mexico.’ *Global Study on Homicide 2011: Trends, Context, Data*; Statistical Annex (with online datasets), pp. 103-125. Vienna: United Nations Office on Drugs and Crime. 6 October.

SUMMARY OF GUN CONTROL IN JAPAN:

- Guiding gun control legislation in Japan includes the Firearms and Swords Control Law, Ordnance Manufacturing Law, Explosives Control Law, and Customs Law.
- Guns in Japan are regulated by the Prefectural Public Safety Commission.
- In Japan, the right to private gun ownership is not guaranteed by law.
- In Japan, civilians are not allowed to possess handguns, hunting guns without specific approval, military rifles, machine guns, any gunpowder charged firearm, certain air guns and imitation firearms.
- In Japan, private possession of fully-automatic weapons, semi-automatic weapons, and handguns are prohibited.
- Homicides by firearm in Japan per 100,000 people was 0.0 in 2008 with 11 deaths. The average number of firearms per 100 people is .06 and the average total of all civilian firearms is 710,000.

SUMMARY OF GUN CONTROL IN GERMANY:

- Guiding gun control legislation in Germany includes the Basic Law, War Weapons Control Act, the Weapons Act, the Council Directive of 18 June 1991 on Control of the Acquisition and Possession of Weapons, and the Convention of 1 July 1969 on Reciprocal Recognition of Proofmarks on Small Arms
- Guns in Germany are regulated by the Ministry of the Interior and the Federal States, and the European Commission:
 1. civilians are not allowed to possess automatic firearms, firearms disguised as other objects, and armour-piercing, incendiary and expanding ammunition
 2. private possession of fully automatic weapons is prohibited
 3. private possession of semi-automatic assault weapons is permitted only with special authorization
 4. private possession of handguns (pistols and revolvers) is permitted only with special authorization
 5. only licensed gun owners may lawfully acquire, possess or transfer a firearm or ammunition.
- Applicants for a gun owner's licence in Germany are required to prove genuine reason to possess a firearm, for example, hunting, target shooting, collection, personal protection (in exceptional circumstances), security
- The minimum age for gun ownership in Germany is 21 years
- An applicant for a firearm licence in Germany must pass background checks which consider criminal and mental records
- Where a past history, or apprehended likelihood of family violence exists, the law in Germany does not stipulate (unless reflected in a criminal record) that a gun licence should be denied or revoked
- In Germany, an understanding of firearm safety and the law, tested in a theoretical and/or practical training course is required for a firearm licence.

- Licensed firearm owners in Germany are permitted to possess a varied number of firearms dependent on type and intended use
- A licensed firearm owner in Germany is permitted to possess only ammunition suitable for the intended firearm
- Homicides by firearm in Germany per 100,000 people was .8 in 2010 with 690 deaths. The average number of firearms per 100 people is 30.3 and the average total of all civilian firearms is 25,000,000.

References:

<http://www.gunpolicy.org/>

http://en.wikipedia.org/wiki/Gun_politics

Voices of the Gun Control Debate

While the National Rifle Association (NRA) is often the most recognized and prominent voice in the debate over gun control, there are a variety of other organizations weighing in on both sides of the argument.

Here is an overview of some of the most prominent voices in the gun control debate.

National Rifle Association

- Founded in 1871
- The NRA became engaged in politics in 1977
- National Rifle Association is associated with:
 - o NRA Institute for Legislative Action is the NRA's main lobbying group and campaign operation
 - o NRA Political Action Committee contributes money directly to candidates
 - o NRA Civil Rights Defense Fund which does pro-bono legal work for people with cases related to the Second Amendment
- <http://home.nra.org>

Gun Owners of America (GOA)

- Founded in 1975 by Senator H.L. Richardson
- According to its website, mission is to defend the Second Amendment rights of gun owners
- Believe that no gun control laws are appropriate.
- Associated organizations include:
 - o Gun Owners of America Political Victory Fund which supports the election of pro-gun candidates
 - o Gun Owners of California
 - o Gun Owners Foundation which is devoted to education and research about key issues affecting the Second Amendment
- <http://gunowners.org>

Independent Firearm Owners Association (IFOA)

- Founded by Richard Feldman, former NRA regional political director
- Website focuses on firearm and related criminal justice issues
- According to the website, the goal of the organization is to grow the organization in areas where the IFOA believes that existing gun groups have not been successful
- <http://www.independentfirearmowners.org>

National Shooting Sports Foundation (NSSF)

- Firearms Industry Trade Association
- Stated mission is to promote, protect and preserve hunting and the shooting sports
- <http://www.nssf.org/>

Second Amendment Foundation (SAF)

- According to its website, SAF is “dedicated to promoting a better understanding about our Constitutional heritage to privately own and possess firearms”
- Founded in 1974 by Alan Gottlieb
- According to its website, the organization defends the “right to keep and bear arms through its publication, public education programs and legal action”
- www.saf.org

Brady Center to Prevent Gun Violence

- Founded in 1983 as an education outreach organization dedicated to reducing gun violence
- Originally called the Center to Prevent Handgun Violence, changed to the current name in 2001
- Founded the Legal Action Project which represents victims of gun violence, defends gun laws, and challenge policies the group believes to be harmful
- <http://www.bradycenter.org>

Brady Campaign to Prevent Gun Violence

- Organization was founded in 1974 as the National Council to Control Handguns
- In 2001 it was renamed the Brady Campaign to Prevent Gun Violence
- The website states that the Brady Campaign works to pass and enforce sensible federal and state gun laws, regulations and public policies
- <http://www.bradycampaign.org>

Mayors Against Illegal Guns

- Organization co-chaired by New York City Mayor Michael Bloomberg and Boston Mayor Thomas M. Menino
- The first summit for the group was held in New York City in April 2006 and consisted of 15 participants
- The MAIG reports on its website that there are now more than 900 mayors who have joined the organization from both big cities and small towns
- In recent weeks, Mayor Bloomberg has participated in interviews on shows such as meet the press to discuss efforts the group is now taking

- Designated March 28, 2013 as National Day to Demand Action and launching ads demanding action from US Senators
- <http://www.mayorsagainstillegalguns.org>

Violence Policy Center (VPC)

- According to its website, the goal is to promote gun control through research, advocacy, education and collaboration
- <http://www.vpc.org>

Center for American Progress

- Founded by John Podesta in 2003
- Left leaning public policy think tank
- George Soros is among individual donors
- Sister organization Center For American Progress (CAP) Action Fund
- <http://www.americanprogress.org>

A Financial Comparison

http://www.washingtonpost.com/blogs/the-fix/wp/2012/12/18/the-nras-big-spending-edge-in-1-chart/?tid=pm_politics_pop